

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOSEPH A. NELSON,

Plaintiff,

v.

THURSTON COUNTY, a Washington
municipality, and RODNEY T. DITRICH,
an individual,

Defendants.

CASE NO. 3:18-cv-05184-DGE

MINUTE ORDER

The following Minute Order is made by direction of the Court, United States District Judge David G. Estudillo:

On December 20, 2018, Defendants Rodney Ditrich and Thurston County filed a Motion for Summary Judgment. (Dkt. No. 31.) This motion sought dismissal of Plaintiff's claims against Thurston County. (*Id.* at 18.) Defendant John Snaza also filed a Motion for Summary Judgment (Dkt. No. 34), which Defendants Ditrich and Thurston County joined (Dkt. No. 36).

On March 21, 2019, Judge Ronald B. Leighton denied both Motions for Summary Judgment, finding the parties' competing stories prevented summary judgment resolution of this

1 case on any theory. (Dkt. No. 109 at 5.) Defendants filed Motions for Reconsideration, which
2 were also denied. (Dkt. Nos. 113, 115.)

3 Defendants appealed the denial of summary judgment. The Ninth Circuit accepted
4 Defendants Ditrich and Snaza's appeals based on the denial of qualified immunity but did not
5 accept Thurston County's appeal for lack of subject matter jurisdiction. (Dkt. No. 153 at 1.) *See*
6 *Horton by Horton v. City of Santa Maria*, 915 F.3d 592, 603 (9th Cir. 2019) ("The denial of
7 summary judgment to a municipal defendant on a *Monell* claim is . . . no different from the
8 denial of any ordinary motion for summary judgment, and so is not immediately appealable.").

9 On December 15, 2022, this Court held a scheduling conference with the parties. (Dkt.
10 Nos. 228, 229.) Defendants' counsel conveyed his intent to move for summary judgment on
11 Plaintiff's *Monell* claim.

12 The Court DIRECTS Defendant Thurston County to explain in no more than three pages
13 why its proposed motion for summary judgment is not precluded by its prior Motion for
14 Summary Judgment (Dkt. No. 31), which has already been decided. Specifically, Defendant
15 Thurston County previously argued the absence of "evidence that Thurston County had a policy
16 or custom of any kind that relates to the constitutional claims in this action" (*Id.* at 19), which
17 Plaintiff responded to (*see* Dkt. No. 52 at 24-25).

18 Defendant SHALL file this explanation by January 2, 2023.

19 Dated this 15th day of December, 2022.

20 The foregoing Minute Order authorized by THE HONORABLE DAVID G.
21 ESTUDILLO, UNITED STATES DISTRICT JUDGE.
22
23
24